

Legal Alert

Last week for leniency under mandatory disclosure rules

April 2019

Obligations to report tax schemes to the Head of the National Fiscal Administration may apply to both the client and the adviser, as well as other entities and persons, even when that they do not have their place of residence, registered seat or management in the territory of Poland.

MDR obligations

As of 1 January 2019, the Tax Ordinance (Journal of Laws 2018 item 800, as amended) provides for obligations to report tax schemes to the Head of the National Fiscal Administration. Reporting requirements may arise when statutory prerequisites are met involving development, offering, making available or implementing an arrangement, or managing implementation of an arrangement, as well as providing, directly or through other persons, assistance, support or advice regarding the development, introduction to trading, organization, making available for implementation or supervision of implementation of an arrangement.

Fines

Failure to provide information on tax schemes carries a penalty of up to 720 per diem units, which in 2019 would total **PLN 21,600,000** under the Fiscal Penal Code.

In Tax Instructions of 31 January 2019, "Information on Tax Schemes (MDR)," the Minister of Finance emphasized that the institution of reporting tax schemes had not previously existed in the Polish legal system, which could cause delays in meeting these obligations. Therefore, if proper reports are filed late between 1 March 2019 and 30 April 2019, the delay will be treated as a case of lesser importance. This means that such delay will be subject to a fine for fiscal offenses, which in 2019 amounts up to PLN 45,000.

Internal procedure

Moreover, legal persons and organizational units without legal personality who are promoters, employ promoters, or actually remunerate these entities, and whose revenues or costs, within the meaning of accounting regulations, determined on the basis of accounting books, exceeded the equivalent of PLN 8,000,000 in the year preceding the financial year, must introduce and apply an internal procedure to prevent failure to report tax schemes.

Failure to comply with this obligation is punishable by up to PLN 10,000,000.

Our support

- We help in analyzing whether a planned or adopted solution is a reportable tax scheme.
- We prepare internal procedure and assist in implementation. We have experience in conducting training for employees in this field.
- We have created a tool MDRscan helping businesses identify reportable tax schemes.



Contact us

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